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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/804,958	03/19/2004	Chanh C. Vo	HE0222	9176
21495 7590 07/22/2009 CORNING INCORPORATED INTELLECTUAL PROPERTY DEPARTMENT, SP-TI-3-1 CORNING, NY 14831				
EXAMINER				
CHIEM, DINH D				
ART UNIT		PAPER NUMBER		
2883				
MAIL DATE		DELIVERY MODE		
07/22/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/804,958

**Applicant(s)**

VO ET AL.

**Examiner**

ERIN D. CHIEM

**Art Unit**

2883

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 7-12, 17-21, 23, 24, 28, 29 and 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-12, 17-21, 23, 24, 28, 29 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

The examiner hereby vacates the Final Action (mailed 6/11/2008) and is replaced by the Non-final office action included herein.

**DETAILED ACTION**

This office action is in response to applicant's amendment filed July 12, 2007. Currently, claims 1-4, 7-12, 17-21, 23-24, 28-29, and 31.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 8, 11-12, 17-21, and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Neill et al. in view of Clapp, Jr. et al. (US 6,434,313 B1).

In terms of claims 1-4, 17, 20-21, and 28-29, O'Neil teaches a splice pedestal comprising a base (Fig. 1; '12' '21' '24' and see also Fig. 7), a housing (10) positioned over the base, a distribution cable (9) received within the interior cavity, a plate (26) secured to one of the housing and the base and operable for separating the interior cavity into a first compartment (not explicitly drawn but explained in col. 2, lines 52-57) disposed within the housing and a second compartment (21). A splice tray (24) means for interconnecting. Furthermore, a plate (26) sealing the first compartment relative to the second compartment and the gel is only filled from (21) to (25), which is the first compartment and the second compartment are substantially

free of a gel encapsulant material. O'Neil discloses at least one cable port for routing the distribution cable into and out of the first compartment (9). At least one optical fiber of the distribution cable is spliced to the at least one optical fiber of the drop cable in the first compartment (col. 2, lines 30-54) and wherein the means for interconnecting comprises at least one splice tray (24).

However, O'Neil discloses a gel encapsulant material in the first and/or second compartment.

Clapp discloses a fiber optic closure with couplers and splice tray. As Fig. 1 shows the splice tray and the separation of the first and the second compartment separated by the plate or referred to as the "end cap" by Clapp Jr. Furthermore, Clapp discloses the end cap seals the enclosure without any gel encapsulant material. **The motivation** is obvious in the improvement of the Clapp over O'Neill since there is no gel encapsulant is required. The enclosure can be removed and the internal members can be worked on or replaced without having the deterrent of the gel encapsulant material and/or replace the gel encapsulant material in order to seal the enclosure.

Examiner would respectfully point out Clapp refers to the plate which separates the first and second compartment as end-cap but still reads upon applicant's claimed first and second compartments. However, Fig. 4 is extract from applicant's disclosed figures clearly shows the plate (38) creates the barrier between the first and second compartment is also the end-cap since

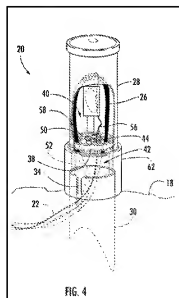
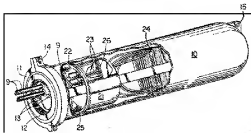


plate 38 functions as the sealing structure and the so-call first-compartment is merely the open space that is formed within the cylinder between plate 38 or end-cap 38 with the ground.

Applicant does not distinctly disclose the patentable distinction between the “first compartment” shown in Fig. Between the space in the phantom lines and the “first compartment wherein the cables (9) are extending from.

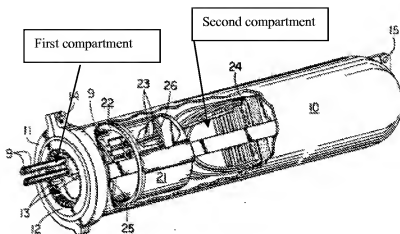
Regarding claims **8, 11-12, and 18-19** the “plate” is referred to as “circular areas” by O’Neill; wherein the circular areas joined together to form a plate sealing the first compartment relative to the second compartment. The second compartment creates a bell jar effect when the housing (10) is positioned over the base to further seal the interior cavity relative to the ambient atmosphere.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims **7, 9-10, 23-24, and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over O’Neil et al. and Clapp Jr. in further view of Saito (US 5,649,042).



O'Neil teaches a splice pedestal comprising a base (Fig. 1; '12' '21' '24' and see also Fig. 7), a housing (10) positioned over the base, a distribution cable (9) received within the interior cavity, a plate (26) secured to one of the housing and the base and operable for separating the interior cavity into a first compartment (not explicitly drawn but explained in col. 2, lines 52-57) disposed within the housing and a second compartment (21). A splice tray (24) means for interconnecting. Furthermore, a plate (26) sealing the first compartment relative to the second compartment and the gel is only filled from (21) to (25), which is the first compartment and the second compartment is substantially free of a gel encapsulant material.

However, O'Neil and Clapp Jr. do not explicitly teach the limitation of a pre-connectorized cable.

Saito teaches a cable distribution shelf or closure employs preconnectorized cable for the purpose of preventing entanglement of the optical fiber cables (col. 1, lines 36-52).

Since O'Neil and Saito are both from the same field of endeavor, the purpose disclosed by Saito would have been recognized in the pertinent art of O'Neal.

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to employ preconnectorized cable to separate the cables and preventing

entanglement of the cables. The motivation employing preconnectorized cable is to prevent the cables from intertwined with one another causing bent in the fiber leading to signal loss of the fiber transmission. By maintaining the cable at a minimal bent using preconnectorized cable, signal loss caused by bent in entangled cables is prevented. The more well-known motivation for utilizing preconnectorized cable is the ease of installation on-site, since the connective junction of the cable to any suitable device does not need to be spliced on-site since it has been “preconnected,” hence the name preconnectorized cable.

#### ***Response to Arguments***

Applicant's arguments, see Remarks filed July 12, 2007, with respect to the rejection(s) of claim(s) 1, 17, and 28 under 35 U.S.C. 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of O'Neil and Clapp Jr. and O'Neil and Clapp Jr. in further view of Saito.

#### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erin D. Chiem whose telephone number is (571) 272-3102. The examiner can normally be reached on Monday - Thursday 9AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Erin D Chiem/  
Patent Examiner, Art Unit 2883

/Frank G Font/  
Supervisory Patent Examiner, Art Unit 2883